

**OFFICE OF THE ATTORNEY GENERAL****LAWRENCE G. WASDEN**

Consumer Protection Unit

650 W. State Street, Lower Level

P. O. Box 83720

Boise, ID 83720-0010

Phone: (208) 334-2424

Idaho Tobacco Product Manufacturer Certificate of Compliance☐**Initial**☐**Annual**☐**Supplemental****Part 1: Tobacco Product Manufacturer's Identification/Status****A. Tobacco Product Manufacturer Identification**

Company Name: _____

Physical Address: (street address only; no post office box) _____

Mailing Address (if different from above): _____

Phone: _____ FAX: _____

Email Address: _____ Website Address: _____

Name/Title of Person Completing Certification: _____

Tobacco Product Manufacturers submitting an initial Idaho Tobacco Product Manufacturer Certificate of Compliance (Certification), please provide the information requested in Part 1.A.1. Tobacco Product Manufacturers who have previously certified in the State of Idaho and are submitting an annual or supplemental Certification, proceed to Part 1.B.

1. Company Officers and Owners. List all company officers and owners (all persons with an equity interest of 10% or more in the company). Attach additional sheets of paper as needed to provide a complete response.

| Title (<i>check one</i>) | Full Name | Street Address | Telephone/FAX #s | Email |
|---|-----------|----------------|------------------|-------|
| <input type="checkbox"/> President | | | | |
| <input type="checkbox"/> Partner | | | | |
| <input type="checkbox"/> Other | | | | |
| <input type="checkbox"/> Vice President | | | | |
| <input type="checkbox"/> Partner | | | | |
| <input type="checkbox"/> Other | | | | |
| <input type="checkbox"/> Secretary | | | | |
| <input type="checkbox"/> Partner | | | | |
| <input type="checkbox"/> Other | | | | |
| <input type="checkbox"/> Treasurer | | | | |
| <input type="checkbox"/> Partner | | | | |
| <input type="checkbox"/> Other | | | | |

Please attach current copies of articles of incorporation, corporate charters, certificates of corporate existence, operating agreements, and bylaws or extracts of stockholders' meetings, as applicable to corporate status.

B. Tobacco Product Manufacturer Status

The undersigned certifies that as of the date of signing of this Certification, the Tobacco Product Manufacturer named in 1.A. (Certifying Tobacco Product Manufacturer) is: (initial one)

_____ A Participating Manufacturer (Certifying Participating Manufacturer) under the Tobacco Master Settlement Agreement as defined in Idaho Code § 39-8402(6). ***If you have indicated you are a Certifying Participating Manufacturer, skip the rest of Part 1 and go to Part 2.***

_____ A Non-Participating Manufacturer (Certifying Non-Participating Manufacturer) in full compliance with Idaho Code § 39-7801 et seq. and Idaho Code § 39-8401 et seq., including all quarterly escrow payments required by Rule 100, 101, and 102 of the Idaho Rules Implementing the Idaho Tobacco Master Settlement Agreement Complementary Act, codified at IDAPA 04.20.01100 – 102.

C. Non-Participating Manufacturer Status

1. If certifying as a Non-Participating Manufacturer, do you certify that you are the fabricator of the Brand Families listed in this Certification, and that it is your intention that the Brand Families listed herein be sold in the United States, including Cigarettes intended to be sold in the United States through an importer? (initial one)

Yes_____ No _____

If yes was initialed, please set forth on separate sheets of paper: (1) the location of your factory(ies), including street addresses, phone and facsimile numbers, and the name, title and phone number of a contact at the factory(ies); and (2) the names of all other entities, if any, involved in the fabrication process, including a description of their involvement. If the fabrication process is different for any Brand Family(ies) listed in this Certification, please explain the difference(s). This inquiry **must** be answered for each of the Brand Families that you are certifying.

2. If certifying as a Non-Participating Manufacturer, do you certify that you are the Tobacco Product Manufacturer of the Brand Families listed in this Certification because you are the first purchaser anywhere for resale in the United States of Cigarettes manufactured anywhere that the manufacturer did not intend to be sold in the United States? (initial one)

Yes_____ No _____

If yes was initialed, please set forth on separate sheets of paper: (1) the name of the fabricator of the Cigarettes; the fabricator's physical plant address, mailing address, contact person, telephone and facsimile numbers; and the fabricator's relationship to you. In addition, identify the location of the transfer of ownership and attach a copy of any agreement or contract between you and the fabricator

indicating that you are the first purchaser anywhere for resale in the United States of Cigarettes manufactured anywhere that the manufacturer does not intend to be sold in the United States. Please note: Under this provision, the sale by any other distributor or importer of Cigarettes belonging to the Brand Families listed in this Certification constitutes a basis for disqualification.

3. If certifying as a Non-Participating Manufacturer, do you certify that you are the Tobacco Product Manufacturer because you are the successor of any entity described in Idaho Code § 39-7802(i)(1) or (2)? (initial one)

Yes_____ No _____

If yes was initialed, on separate sheets of paper, please set forth the name of the entity for which you certify you are the successor, its mailing address, contact person, and telephone and facsimile numbers.

4. If certifying that you are the Non-Participating Manufacturer of the Brand Families for which certification is sought and you are not the fabricator, nor the first purchaser anywhere for resale in the United States of Cigarettes manufactured anywhere that the manufacturer does not intend to be sold in the United States, and are not the successor of any entity described in Idaho Code § 39-7802(i)(1), (2) or (3), then on separate sheets of paper, please set forth the basis of your claim to be a Tobacco Product Manufacturer as defined in Idaho Code § 39-7802(i). Please attach to this Certification any and all documentation supporting your assertion, including any documentation required to be filed under Idaho or United States law.

Part 2: Sales Year

Year of sales for this Certification is: _____.
(Complete a separate Certification for each sales year)

Part 3: Brand Family Identification

Participating Manufacturers complete column A; Non-Participating Manufacturers complete columns A through C. Attach additional sheets if necessary.

| A. Brand Family (Indicate with an asterisk (*) those Brand Families that will not be sold in 2006) | B. Name and address of other Tobacco Product Manufacturers, if any, from preceding or current calendar years of the listed Brand Families | C. Units Sold for Sales Year indicated |
|---|--|---|
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| | | |

Please note: In addition to completing columns A, B, and C, Non-Participating Manufacturers must also submit either an Idaho Certificate of Escrow Funding Compliance or an Idaho Quarterly Certificate of Escrow Funding Compliance, as applicable, to the Office of the Attorney General. Both Certificates and information about their applicability and filing deadlines are located at: <http://www2.state.id.us/ag/consumer/tobacco/nonparticipating.htm>.

Part 4: Non-Participating Manufacturer Certification

Only Non-Participating Manufacturers need to fill out Part 4. Participating Manufacturers may proceed to Part 5.

A. Registered Agent/Approved Agent for Service of Process

Pursuant to Idaho Code § 39-8403(1)(c)(i), the Certifying Non-Participating Manufacturer certifies that it: (initial one)

_____ Is registered to do business in the State of Idaho.

_____ Has appointed and continues to engage a registered agent for service of process in the State of Idaho.

Resident Agent Name: _____ Date of Appointment: _____

Company: _____

Physical Address: _____ Mailing Address: _____

Phone: _____ FAX: _____ Email: _____

Has the Certifying Non-Participating Manufacturer previously submitted a Non-Participating Manufacturer's Appointment of Registered Agent form as proof of appointment? (initial one)

Yes _____ No _____ If yes, please indicate the date it was submitted: _____

If you initialed yes, please confirm that the appointment is still valid. (initial one)

Yes _____ No _____

If no Non-Participating Manufacturer's Appointment of Registered Agent form was previously submitted to the Office of the Attorney General or an appointment already submitted is no longer valid, please attach a Non-Participating Manufacturer's Appointment of Registered Agent form with the Certification submitted to the Office of the Attorney General. The form for appointment of a registered agent is located at : <http://www2.state.id.us/ag/consumer/tobacco/nonparticipating.htm>.

B. Qualified Escrow Fund – Financial Institution

1. The Certifying Non-Participating Manufacturer certifies that at the time of the execution of the Certification: (initial both)

_____ It has established, and continues to maintain, a Qualified Escrow Fund, and the Qualified Escrow Fund complies with Idaho Code §§ 39-7802(f) and 39-8403(1)(c); and

_____ Any escrow funds held or to be held in its Qualified Escrow Fund will be held in a separate segregated account on behalf of the State of Idaho and are separate and apart from escrow funds held on behalf of any other beneficiary.

A complete copy of the Certifying Non-Participating Manufacturer's qualified escrow agreement, in executed form, including all amendments and attachments, has been provided to the Office of the Attorney General? Yes _____ No _____

If yes was initialed, please indicate the date a complete copy of the qualified escrow agreement was provided to the Office of the Attorney General: _____

If no was initialed, please attach a complete copy of the Certifying Non-Participating Manufacturer's qualified escrow agreement, in executed form, including all amendments and attachments.

2. Escrow Agent Identification

Name of Financial Institution: _____

Authorized Escrow Agent Contact Name and Title: _____

Physical Address: _____ Mailing Address: _____

Phone number: _____ Fax number: _____

Qualified Escrow Account No.: _____ Subaccount No. for Idaho: _____

C. Escrow Deposit/Withdrawal History for Idaho

| Date | Deposit** | Withdrawal ¹ | Balance |
|------|-----------|-------------------------|---------|
| | | | |
| | | | |
| | | | |

** Please attach proof from the Qualified Escrow Fund Agent of the current balance of the escrow subaccount for the benefit of the State of Idaho .

Part 5: Authorized Designee Signature and Representation

Under penalty of perjury, I certify and declare that all of the statements and information contained in this Certification, including attachments, if any, are true, correct, accurate and complete in every particular, and that I am a person authorized to bind the Certifying Tobacco Product Manufacturer under either the laws of the State of Idaho or of the jurisdiction where the Certifying Tobacco

¹ Withdrawals must comply with Idaho Code § 39-7803(b). Verification of compliance must be provided.

Product Manufacturer resides or is organized. Any violation of these requirements is a basis for removal of the Certifying Tobacco Product Manufacturer and/or its Brand Families from the Directory of Compliant Tobacco Product Manufacturers and Brand Families.

Pursuant to Idaho Code 39-8403(5), I affirm that the Certifying Tobacco Product Manufacturer consents to being sued in Idaho District Court for the purposes of the State of Idaho enforcing any provisions of Idaho Code § 39-7801, et seq. or Idaho Code § 39-8401, et seq. or for the State of Idaho bringing any action regarding a released claim as that term is defined by Idaho Code §39-7802(g). Attached is appropriate documentation authorizing me to consent on behalf of the Certifying Tobacco Product Manufacturer to being sued in Idaho District Court.

Pursuant to Idaho Code § 39-8403(1)(e), I certify that the Certifying Tobacco Product Manufacturer shall maintain all invoices, documentation of sales, and any other documentation relied upon in making this Certification for a period of five (5) years from the date the Certification is executed.

Authorized Designee: _____ Title: _____

Signature of Designee: _____ Date: _____

Subscribed and sworn to before me on this date: _____

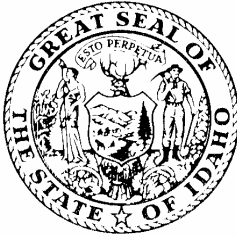
Signature of Notary Public: _____

City or County of: _____

Printed Name of Notary Public: _____

My Commission expires: _____

Seal:



OFFICE OF THE ATTORNEY GENERAL

LAWRENCE G. WASDEN

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Phone: (208) 334-2424

**Instructions for the Idaho Tobacco Product Manufacturer
Certificate of Compliance**

General Information

Who must file an Idaho Tobacco Product Manufacturer Certificate of Compliance?

Any Tobacco Product Manufacturer whose Cigarettes are sold in the State of Idaho, whether directly or through any distributor, retailer, or similar intermediary, must execute and deliver to the Office of the Attorney General an Idaho Tobacco Product Manufacturer Certificate of Compliance (Certification).

Please note: The Certification is in addition to Idaho's Certificate of Escrow Funding Compliance and Idaho's Quarterly Certificate of Escrow Funding Compliance, which Non-Participating Manufacturers must also submit to the Office of the Attorney General, as applicable. Both of the escrow funding certificate forms and information about their applicability and when they must be filed are located at:

<http://www.ag.idaho.gov>.

When is the Certification due?

If a Tobacco Product Manufacturer has not previously submitted a Certification to the Idaho Office of the Attorney General, it must submit a Certification to the Attorney General, and the Attorney General must certify both the Tobacco Product Manufacturer and the Brand Family(ies) it manufactures before its Cigarettes can be sold in Idaho. Thereafter, a Tobacco Product Manufacturer that has been certified and had its Brand Families certified by the Attorney General must annually submit its Certification on or before April 30th of the year following the year in which sales were made. A previously certified Tobacco Product Manufacturer must deliver an executed supplemental Certification to the Office of the Attorney General 30 days before it modifies or adds to the Brand Family(ies) it has listed on the Directory.

To whom must the Certification be delivered?

Mail the original Certification and a complete copy of all supporting documents to:

OFFICE OF THE ATTORNEY GENERAL
Consumer Protection Unit
650 W. State Street, Lower Level
P. O. Box 83720
Boise, ID 83720-0010
Attention: Tobacco Enforcement

Definitions¹

- (a) "Brand Family" means all styles of Cigarettes sold under the same trademark and differentiated from one another by means of additional modifiers or descriptors, including, but not limited to, "menthol," "lights," "kings," and "100s," and includes any brand name (alone or in conjunction with any other word) trademark, logo, symbol, motto, selling message, recognizable pattern of colors, or any other indicia of product identification identical or similar to, or identifiable with, a previously known brand of cigarettes.
- (b) "Cigarette" has the same meaning given that term in Idaho Code § 39-7802(d).
- (c) "Directory" means the Directory of Compliant Tobacco Product Manufacturers and Brand Families, as provided for by Idaho Code § 39-8403(2).
- (d) "Master Settlement Agreement" has the same meaning given that term in Idaho Code § 39-7802(e).
- (e) "Non-Participating Manufacturer" means any Tobacco Product Manufacturer that is not a Participating Manufacturer.
- (f) "Participating Manufacturer" has the same meaning as that term is defined in Section II(jj) of the Master Settlement Agreement and all amendments thereto.
- (g) "Qualified Escrow Fund" has the same meaning given that term in Idaho Code § 39-7802(f).
- (h) "Stamping Agent" means a person that is authorized or required to affix tax stamps to packages or other containers of Cigarettes under Idaho Code § 63-2501, et seq.
- (i) "Tobacco Product Manufacturer" has the same meaning given that term in Idaho Code § 39-7802(i).
- (j) "Units Sold" has the same meaning given that term in Idaho Code § 39-7802(j).

Specific Instructions

Part 1: Tobacco Product Manufacturer's Identification.

A. Identification. Identify the Tobacco Product Manufacturer's name, physical, mailing, email, and Website addresses and telephone and fax numbers. Also identify the name and title of the person completing the Certification who will serve as the contact person for the manufacturer.

¹ Defined terms are capitalized throughout these instructions and the Certification.

When submitting an initial Certification, list the Tobacco Product Manufacturer's officers and owners (persons with an equity interest of 10% or more).

B. Tobacco Product Manufacturer Status. The Tobacco Product Manufacturer must certify that it is a Participating Manufacturer or a Non-Participating Manufacturer in full compliance with Idaho Code § 39-7801, et seq. and Idaho Code § 39-8401, et seq., including compliance with all quarterly installment deposits required by rules promulgated by the Attorney General, pursuant to Idaho Code § 39-8405(5). *See* IDAPA 04.20.01.100 – 102.

C. Non-Participating Manufacturer Status. If the Tobacco Product Manufacturer certifies that it is a Non-Participating Manufacturer, it must indicate in what capacity it is certifying and provide supporting, applicable information as set forth in Part 1.C. of the Certification.

Part 2: Sales Year. Identify the sales year.

Part 3: Brand Family Identification. Identify by Brand Family all of the Cigarettes that the Tobacco Product Manufacturer intends to sell in Idaho, whether directly or through any distributor, retailer, or similar intermediary, and for which it seeks certification and inclusion on the Directory. The posting on the Directory of a Brand Family does not limit or otherwise affect the right of the State to maintain that Cigarettes in a Brand Family are those of a different Tobacco Product Manufacturer for purposes of calculating payments under the Master Settlement Agreement or for purposes of applying the escrow requirements of Idaho Code § 39-7803(b).

A **Participating Manufacturer** must include a list of its Brand Families (column A) in its Certification, and it may not include a Brand Family in its Certification unless it affirms that the Brand Family is to be deemed to be its Cigarettes for purposes of calculating its payments under the Master Settlement Agreement for the relevant year, in the volume and share determined pursuant to the Master Settlement Agreement. The Participating Manufacturer shall update its Brand Family(ies) list 30 days prior to any addition to or modification of its Brand Families by executing and delivering a supplemental certification to the Office of the Attorney General.

A **Non-Participating Manufacturer's** Certification must include (i) a list of all of its Brand Families that were sold in the State during the preceding calendar year and/or that have been sold in the State at any time during the current calendar year (column A); (ii) the complete name and address of any other Tobacco Product Manufacturer that manufactured a Brand Family listed (column B); and (iii) the number of Units Sold for each Brand Family listed in column A that were sold in the Sales Year indicated (column C). With respect to column A, a Non-Participating Manufacturer must indicate, by asterisk, any Brand Family sold in the State during the preceding calendar year that is no longer being sold in the State as of the date of the Certification. A Non-Participating Manufacturer may not include a Brand Family in its Certification unless the Brand Family is deemed to be its Cigarettes for purposes of Idaho Code § 39-7803(b). The Non-Participating Manufacturer shall update the Brand Family list in its Certification 30 days prior to any addition to or modification of its Brand Families by executing and delivering a supplemental Certification to the Office of the Attorney General.

Part 4: Non-Participating Manufacturer Certification. Only Non-Participating Manufacturers need to fill out Part 4. Participating Manufacturers may proceed to Part 5.

A. Registered Agent/Approved Agent for Service of Process. If a Non-Participating Manufacturer has not registered with the Idaho Secretary of State to do business in Idaho, it must appoint and continually engage, without interruption, the services of an agent located in Idaho to act as agent for service of process on whom all process may be served in any manner authorized by law. If a Certifying Non-Participating Manufacturer is registered to do business in Idaho, the appropriate blank on the Certification needs to be initialed, and if it has not registered to do business in Idaho, it must provide registered agent information, including the agent's name, address, telephone number, proof of appointment, and availability of the agent to the Office of the Attorney General pursuant to Idaho Code § 39-8404(1). If a Non-Participating Manufacturer has not previously submitted a Non-Participating Manufacturer's Appointment of Registered Agent form to the Office of the Attorney General, it must be attached to the Certification. The form for appointment of a registered agent is located at:

<http://www.ag.idaho.gov>.

Non-Participating Manufacturers must provide notice to the Office of the Attorney General 30 days prior to the termination of the authority of its appointed agent. Should a Non-Participating Manufacturer terminate the agent appointment, no less than five days prior to the termination, the Non-Participating Manufacturer must provide proof of appointment of a new agent and certify registered agent information, including the agent's name, address, telephone number, proof of appointment, and availability of the agent, to the Office of the Attorney General pursuant to Idaho Code § 39-8404(2). In the event that the appointed agent identified in Part 4.A. of the Certification terminates the agency appointment, the Non-Participating Manufacturer must notify the Office of the Attorney General of the termination within five days of termination and include proof of the appointment of a new agent, together with the information required pursuant to Idaho Code § 39-8404(2).

B. Qualified Escrow Fund. A Non-Participating Manufacturer must certify that it has (i) established a Qualified Escrow Fund that complies with Idaho law and (ii) that any escrow funds held or to be held in its Qualified Escrow Fund on behalf of the State of Idaho are or will be held in a separate segregated account, separate and apart from escrow funds held on behalf of any other beneficiary. On the Certification, a Non-Participating Manufacturer must also identify (i) the name, address and telephone number of the financial institution where it has established the Qualified Escrow Fund; (ii) the account number of such Qualified Escrow Fund and the sub-account number for Idaho's separate, segregated account; and (iii) provide additional information regarding the qualified escrow agreement. A Non-Participating Manufacturer must submit a copy of a fully executed qualified escrow agreement to the Office of the Attorney General, which must be reviewed and approved by the Attorney General before a Non-Participating Manufacturer is eligible to be listed on the Directory. A copy of a model qualified escrow agreement that complies with Idaho law is located at:

<http://www.ag.idaho.gov>.

C. Escrow Deposit/Withdrawal History for Idaho. A Non-Participating Manufacturer must identify (i) the amount it placed in its Qualified Escrow Fund for all Cigarettes sold in Idaho during the preceding calendar year, (ii) the date and amount of each such deposit; and (iii) the amount and date of any withdrawal or transfer of funds it made at any time from such fund or from any other Qualified Escrow Fund. Proof of all deposits and withdrawals verified by the Qualified Escrow

Fund's escrow agent and that confirm the amounts and dates of deposits and withdrawals must be submitted with the Certification.

Part 5: Execution by Authorized Designee.

The person executing the Certification must be authorized to bind the Certifying Tobacco Product Manufacturer. The authorized designee's name and title must be printed, and the Certification must be executed in the presence of an authorized notary. The person executing the Certification must consent on behalf of the Certifying Tobacco Product Manufacturer to its being sued in Idaho District Court should it become necessary for the State of Idaho to enforce any provisions of Idaho Code § 39-7801, et seq. or Idaho Code § 39-8401, et seq. or for the State of Idaho to bring any action regarding a released claim as that term is defined by Idaho Code §39-7802(g). Appropriate documentation authorizing the person executing the Certification to consent on behalf of the Certifying Tobacco Product Manufacturer to its being sued in Idaho District Court (e.g., Board of Director Resolution) must also be attached. NOTE: Certifying Tobacco Product Manufacturers failing to provide consent to be sued will not be certified to sell cigarettes in the State of Idaho.